



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT

For Meeting Date: September 8, 2011

Agenda Item No. 14: Summary Report on Lead Agencies that have a Financial Interest in Certain Surface Mining Operations within their Respective Jurisdictions, and Compliance with Title 14, Division 2, Chapter 8, Subchapter 1, Section 3504.5(c).

INTRODUCTION: Pursuant to the Surface Mining and Reclamation Act (SMARA), all surface mining operations must be inspected by their respective lead agency. The State Mining and Geology Board (SMGB) serves as the lead agency under SMARA for forty-five (45) individual surface mining operations, including operations located in three counties (Alpine County, El Dorado County and Yuba County), eight (8) San Francisco Bay marine dredging operations, and seven (7) cities that do not have mining ordinances. In review of the SMARA database, potential conflicts of interest have been identified which contradicts Title 14, Division 2, Chapter 8, Subchapter 1, Section 3504.5(c) of the California Code of Regulations (CCR). Specifically, CCR Section 3504.5(c) states:

"A surface mine inspection shall not be performed by any person who holds a financial interest in or has been employed by the surface mining operation in any capacity, including as a consultant or as a contractor, during the year preceding the inspection."

A review of all surface mining operations statewide has commenced. To date, 42 out of 58 counties have been evaluated. A total of 34 surface mining operations within nine counties have been identified where the SMARA lead agency has a potential financial interest (i.e., either as an operator or property owner).

In addition to continuing the evaluation of remaining counties and cities, SMGB staff has initiated inspections of those specific surface mining operations where a financial interest has been confirmed. Under these circumstances, inspections are performed by SMGB staff and upon acceptance by the SMGB, such inspection reports are to be forwarded to the respective SMARA lead agency. The lead agency would be invoiced appropriately and responsible for the cost of conducting such inspections. The lead agency, however, maintains its overall role pursuant to SMARA, and thus is responsible for subsequent compliance and enforcement actions, as deemed necessary and appropriate.

EXECUTIVE OFFICER'S RECOMMENDATION: The information being provided is for the SMGB's information and no recommendations are offered at this time.

Respectfully submitted:

Stephen M. Testa
Executive Officer


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